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REMARKS

Claims 1-16, 20, 22-24, 26-35, 56, 57, and 59 remain pending in the present Application, Claims 1, 5-8, 14-16, 20, 24, 30, 56, 57, and 58-61 having been amended, and Claims 17-19, 36-37, 39, 49-55, 58, and 62-69 having been canceled. The changes to the claims set forth above include to show additions and [to show deletions] relative to the issued patent, U.S. Patent No. 6,044,983.

In response to the Office Action dated February 18, 2009, Applicant respectfully requests reconsideration of the above identified application in view of the above amendments and the following comments.

Drawing Objections

The drawings stand objected to based on certain informalities. In response, Applicant has amended the drawings in order to comply with the outstanding objections.

In particular, with regard to the objection to the drawings based on the inclusion of reference characters 22b and 16' being used to designate the "framework" in Figures 1, 3, 5, and 16, Applicant respectfully directs the Examiner to the text of the present Specification in which the reference character 22b is used to indicate the "framework" and the reference character 16 and 16' are used to designate the "shelf" itself. For example, at column 2, lines 54-57, the original specification indicates that "the support legs support the shelf at 16 above another structure (not shown) such as a shelf in a walk-in cooler, for example. However, in view of the framework at 22b described below. . . ."

In order to expedite prosecution of the present Application, Applicant has amended Figure 3 to generally identify the shelf with reference to numeral 16' and has amended Figure 1 to delete the multiple uses of the reference numeral 16. Additionally, in preparing the new Figure 6 submitted herewith, Applicant has used the reference numeral 16' only once.

In response to the objection to the drawings based on the inclusion of words therein, Applicant has amended Figures 4 and 5 to delete the words "notches", "clip", and "clearance", replacing those with N, C and L, respectively. Accordingly, Applicant has amended the Specification, in the paragraph beginning at column 2, line 34, to include the reference letters V, C, and N. Additionally, Applicant has also amended the paragraph beginning at column 5, line 9

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to include the reference letter L which is used to identify the previously identified “clearance” in Figure 5. Finally, Applicant has deleted the words “cooler shelf” from the drawings without replacement.

In response to the objection to the drawings for including reference numerals (12' and 14') not found in the Specification, Applicant respectfully directs the Examiner to the amendment filed October 6, 2008 which includes an amendment to the Specification specifically to include those reference numerals.

As a convenience to the Examiner, Applicant has reproduced below the amendments submitted on October 6, 2008, in which the specification was amended to include the reference numerals 12' and 14', as follows:

Please replace the paragraph beginning at column 2, line 65 with the following replacement paragraph:

The lowermost ends of the support legs 22a are connected to the framework at 22b. In this embodiment, the support legs 22a have equal lengths so that the shelf at 16 and framework at 22b or, more specifically, rods 36 thereof define first and second parallel planes. In other, equivalent embodiments ([not shown] For example, illustrated in Figure 6 in an embodiment where the shelf 16' is hanging from the cooler shelf, S), however, the support legs may have unequal lengths so that the rear at [14] 14' of the shelf at [16] 16' is higher [(more spaced from the rods 36)] than the front at [12] 12' of the shelf, for example.

Applicant thus submits that the present objection is moot.

With regard to the objections of the drawings for failing to illustrate a “cooler, visi-cooler, walk-in cooler, and glass door cooler”, Applicant has amended Figure 5 to include a box identified by the reference letter V, and extending around the shelf 16' and the cooler shelf S.

Applicant submits that MPEP has long allowed Applicants to illustrate components schematically. Thus, Applicant submits that the present objection is now moot.

Objections To The Specification

The specification stands objected to for having been amended to include new matter. Applicant respectfully traverses the present objection at least because Applicant submits that one

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of ordinary skill in the art would recognize that all the changes made to the Specification through the course of the present Reissue Application were merely formalistic in nature and more fully supported by the original Specification as originally filed.

With regard to the objection to the Specification based on the illustration in Figure 5 showing the legs 22a directly attached to a cooler shelf, Applicant has amended Figure 5 to include a schematic representation of the plate member 10e. Additionally, Applicant has created a new Figure 6, based on recommendations from the Examiner, created from a copy of original Figure 1 with a shelf connected to the panel members 10e, 10f with threaded fasteners.

With regard to the objection to the specification, based on the addition of threaded fasteners 15 extending through the panels 10e, 10f as shown in Figure 3, Applicant respectfully directs the Examiner to the specification, at column 2, lines 62-64 which discloses "for example, the panels 10e, 10f could have holes (not shown) for threaded fasteners to a cooler shelf." Applicant submits that one of ordinary skill in the art would clearly understand that the panels 10e, 10f could have holes. Applicant submits that one of ordinary skill in the art would understand that there is no special technical education required to provide holes through the panels and threaded fasteners. Rather, it is a simple matter to take the disclosure from the specification indicating the panels 10e, 10f could have holes, and then to provide holes through those panels for connection to a shelf with threaded fasteners, precisely as explained in the Specification. Thus, Applicant submits the present objection is moot.

With regard to the objection based on the amendment to the specification that the support legs have different lengths when the rack is mounted on the underside of a shelf, as shown in Figure 6, Applicant respectfully traverses this objection.

Further, this particular point was discussed during the interview of August 4, 2009. During the interview, Applicant pointed out that not only does the specification explain in numerous portions of the text that the forward-most support legs 22a are longer than the rearward-most support legs 22a, so as to cause the shelf to hang lower in the front and thereby cause cylindrical beverage cans to roll forward, Figure 1 itself illustrates the difference in the length of these legs.

Based on this conversation during the interview, the Examiner suggested that the previously submitted new Figure 6 be deleted and a new Figure 6 be generated using original

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Figure 1 and simply adding a shelf disposed on top of the panels 10e, 10f. Thus, in accordance with that discussion during the interview, Applicant has submitted herewith a new Figure 6 prepared precisely in accordance with the Examiner's suggestion. Thus, Applicant submits the present objection as moot.

The specification is also objected to, based on the amendment filed March 5, 2007, with regard to the recitations in certain claims directed to "a spacing defined between the upper ends of the second pair of support legs in the rearward portion of the support assembly sized so as to allow beverage containers to be inserted between a rear portion of the shelf and a rearward portion of the support assembly." Applicant respectfully traverses the present rejection.

As noted in the Office Action, the specification provides support for allowing the insertion of cans at the rear of the rack, such as at column 2, line 51 and column 4 at line 61. Applicant submits that one of ordinary skill in the art would understand the sentence that column 2, line 49-51 which states "the panel 10f is substantially in the plane of the shelf but, preferably slightly higher to facilitate inserting cans at the rear 14" with reference to Figure 1 of the present Application as originally filed, that the spacing or clearance between the rearward-most cross member 26 and the panel 10f is sufficient large to allow cans to be inserted into the shelf 16 from the rear. Applicant submits that the word "clearance" is not new matter. Rather, adding the word "clearance" merely provides a more finite way to recite subject matter disclosed in the application in a way that one of ordinary skill in the art would understand. Applicant thus submits the present objection is moot.

This application also stands objected to, as noted above, based on the recitation that "wherein the first and second pairs of support legs are sized such that the forward portion hangs lower than the rearward portion when the rack is hanging by the upper ends of the first and second pairs of support legs from a horizontal shelf". Applicant respectfully traverses the present rejection.

Additionally, this point was specifically discussed during the interview. As discussed during the interview, Figure 1 of the present Application clearly shows that the forward-most support leg 22a is longer than the rearward-most support leg 22a. Further, the Specification clearly explains this relationship and that this relationship would result in the forward end of the shelf hanging lower than the rearward end, thereby causing cans to roll forward. This relationship

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is specifically disclosed at column 3, lines, 2-6 in which it is disclosed that “in other, equivalent embodiments (not shown), however, the support legs may have unequal lengths so that the rear at 14 of the shelf at 16 is higher (more space from the rods 36) than the front at 12 of the shelf, for example.”

Applicant submits that one of ordinary skill in the art would fully recognize that the disclosure of the support legs having unequal lengths such that the rear of the shelf is higher than the front of the shelf would directly relate to the disclosure in the paragraph immediately above that disclosure indicating that “for example, the panels 10, 10f could have holes (not shown) for threaded fasteners to a cooler shelf.” Thus, Applicant submits that one of ordinary skill in the art reading these paragraphs together would recognize that the unequal length support legs, in combination with the panels 10e, 10f having holes for threaded fasteners would result in the shelf hanging lower in the front than in the rear when hanging from another shelf above it.

Applicant thus submits that the present objection is moot.

The Claims Fully Comply With 35 U.S.C. § 112

Claims 1-20, 22-24, 26-37, 39, 49-53, and 56-69 stand rejected under 35 U.S.C. § 112, 2nd par., as being indefinite. Applicant respectfully traverses the present rejection. However, in order to expedite prosecution of the present Application, Applicant has amended the claims solely to make these claims more easily readable and not to narrow or affect the scope of the claims.

In response to the rejection of Claim 1 based on the recitation “thereon”, Applicant submits that, firstly, the term “thereon” appeared in the original version of Claim 1. Applicant submits that this phrasing is sufficiently definite to satisfy the requirements of 35 U.S.C. § 112, 2nd par. However, in order to expedite prosecution in the present Application, Applicant has amended Claim 1 to delete the term “thereon.” Further, Claims 1 and 6 now recite “a projection of the front rod member and a stop on the projection extending in a direction from the second plane toward the first plane.” Thus, the present rejection is now moot.

With regard to the rejection of Claim 6 based on the phrase “in a direction from the second plane” on lines 11-2 of Claim 6, Applicant has amended Claim 6 to depend from Claim 2 and thus no longer recites that phrase. Thus, the present rejection is moot.

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However, Applicant has also amended Claim 1, as noted above, to recite “a projection of the front rod member and a stop on the projection extending in a direction from the second plane toward the first plane.”

In response to the rejection of Claim 14, based on the recitation of “the additional shelving”, Applicant has amended Claim 14 to recite “additional shelving”, so as to delete the term “the”. Thus, the present rejection, based on a lack of antecedent basis, is moot.

In response to the rejection of Claim 15, based on the recitation of “another structure”, Applicant has amended Claim 15 to delete this phrase. Thus, the present rejection is moot.

In response to the rejection of Claim 20, based on the phrase “shelf”, Applicant has amended Claim 20 to recite “said shelf above the rack”.

With regard to the rejection of Claims 27, 29 and 30 based on the term “beverage containers”, Applicant has amended these claims to recite “said beverage containers”.

In response to the rejection of Claim 36, Applicant has amended Claim 36, line 13, to delete the first recitation of the word “the” and to change this term to “a”. However, Applicant believes this indication of line 13 of Claim 36 may be in error. Applicant encourages the Examiner to contact Applicant’s counsel in order to discuss this rejection.

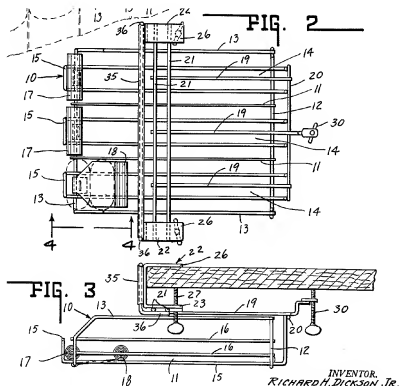
Dickson Does Not Anticipate Claims 5, 18, or 56

Claims 5, 18, and 56 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,007,580 issued to Dickson. Applicant respectfully traverses the present rejection.

However, in order to expedite prosecution of the present Application, Applicant has amended Claim 5 to be dependent from Claim 1 and has canceled Claim 18. Thus, Applicant submits the present rejection with regard to Claims 5 and 18 are now moot.

With regard to the rejection of Claim 56, Applicant would like to point out that Dickson teaches a shelf having a clamp extending across the front edge of a shelf and thumb screws 27 provided for clamping the shelving unit to another shelf above it.

As shown in the reproduction of Figures 2 and 3 from Dickson, set forth below, Dickson teaches using two cross members 21 extending across about the center of the shelf. These two cross members 21 are clamped to a shelf 32 disposed directly above the shelf unit. However, the shelving unit of Dickson does not provide a support frame with at least three cross members extending in a plane.



This is because Dickson does not disclose nor would one of ordinary skill in the art recognize that the Dickson shelf it could support an additional shelf above it in any stable manner. Rather, the two cross members 21, which may be considered as defining a plane, extend out about the center of the shelf.

At the rear of the shelving unit, a raised extended piece holds a further thumb screw 30. This thumb screw 30 does not provide a support for hanging the shelving unit from the shelf 32. Rather, the thumb screw 30 merely provides a manner by which the shelving unit can be tilted. For example, at column 2, lines 42-46, the Dickson reference indicates that “at the rearward end of the container there may be threadedly received a **further thumb screw 30 which as its threaded end projecting upwardly and may be used to adjust the position of the rearward end of the device with respect to the shelf.**” (Emphasis added).

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Thus, Dickson fails to teach a shelf structure that is configured to, in one mode, rest on a shelf, and in a second mode support additional shelving above it with at least three members defining a plane.

In contrast, Claim 56 recites, among other recitations, “a front member and **at least two other members rearwardly spaced from the front member** and, together with the front member, defining a first plane and configured to support additional shelving above the first plane; a framework defining a second plane disposed below the first frame and configured to support a plurality of beverage containers between the first and second plane; and at least one support connecting at least the front member and the framework; wherein at least a portion of the framework extends at least forward of a projection of the front member, the projection including a stop extending in a direction from the second plane toward the first plane; and members on the front and at least one of the other members configured to fix the framework under another structure.” (Emphasis added).

With regard to support for the above bolded phrase, Applicant respectfully directs the Examiner to Figure of the present Application, which illustrates rod members 10a, 10b, and 10c, which constitute three rod members, or in other words, at least two rod members 10b, 10c, spaced from the front rod member 10a.

This distinction is important because such a configuration provides the shelf structure of Claim 56 to both stably support additional shelving above the first plane and also the ability to hang from a shelf. As such, a retail operator can more easily utilize this shelf depending on availability in an existing cooler for example.

As discussed during the interview, if a retailer has space to place the shelf structure of Claim 56 and on a shelf, an additional shelf can also be supported on top of it with the additional shelf stably supported by the at least three members which define the first plane. However, if the retailer operator only has room to fit such a shelf beneath an existing shelf, the members on the front and the at least one of the other members can be used to fix the framework under the shelf. As such, the shelf structure of Claim 56 can be used in a number of different modes.

Applicant thus submits that Claim 56 clearly and nonobviously defines over the Dickson reference.

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Dickson Does Not Anticipate Claim 14

Claim 14 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Dickson. Applicant respectfully traverses the present rejection. However, in order to expedite prosecution of the present Application, Applicant has amended Claim 14.

As noted above, Dickson teaches a shelf structure that hangs from another shelf above it, by means of a clamping device. The clamping device extends across about the middle of the shelf structure. Additionally, a thumb screw 30 disposed at the rear end of Dickson was used to adjust the angular position of the shelf.

As discussed during the interview, Dickson fails to teach a shelf structure having at least two rod members extending laterally across the shelf and first and second plate members extending along the two rod members configured to fix the framework under additional shelving.

In contrast, Claim 14 now recites, among other recitations, “a front rod member (10a) and at least one other rod member (10b, 10c) rearwardly spaced from the front rod member (10a) along a longitudinal direction of the shelf structure and, together with the front rod member (10a), defining a first plane (16) and configured to support additional shelving above the first plane, the front rod member and the at least one other rod member extending in a lateral direction which is transverse to the longitudinal direction, from a first lateral side of the shelf structure to a second lateral side of the shelf structure; a framework (22b) defining a second plane; and at least one support (22a) connecting at least the front rod member (10a) and the framework (22b), wherein at least a portion of the framework (22b) extends at least forward of a projection of the front rod member (10a) thereon with a stop (34), the stop extending in a direction from the second plane with at least a component toward the first plane (16), and further comprising **members on the front and other rod members for fixing the framework under additional shelving, the members comprising first and second plate members, the first plate member extending along the first rod member from the first lateral side of the shelf structure to the second lateral side of the shelf structure and a second plate member extending along the at least one other rod member from the first lateral side of the shelf structure to the second lateral side of the shelf structure**”.

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With regard to the support for the bolded phrases above, Applicant respectfully directs the Examiner to Figure 1 of the present Application which illustrates the plate members 10e, 10f extending along the rod members 10a and 10c and laterally across the shelf 16.

As discussed during the interview, this distinction is important because such a configuration allows a retailer to use the recited shelf in different modes, which is not disclosed or suggested by any of the references cited in the present Office Action. For example, by providing the shelf structure with at least two rod members that extend laterally and are spaced from each other in the longitudinal direction of the shelf structure so as to define a first plane and provide sufficient structure to support additional shelving above the first plane and to further provide those members with plates that are also configured to support the shelf structure from additional shelving above it, a retailer can use the shelf structure in two different modes, conveniently. None of the prior art references teach or suggest such a multi-purpose shelf structure.

Thus, Applicant submits that Claim 14 clearly and nonobviously defines over the Dickson reference.

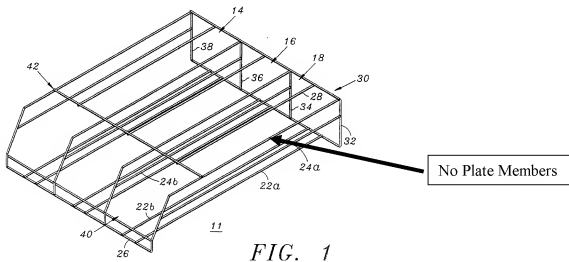
Dickson Does Not Anticipate Claims 68 or 69

Claims 68 and 69 standard rejected under 35 U.S.C. § 102(b) as being anticipated by Dickson. Applicant respectfully traverses the present rejection. However, in order to expedite prosecution of the present Application, Applicant has canceled Claims 68 and 69. Thus, the present rejection is moot.

Buday Does Not Make Claims 1-4, 15-17, 53, or 62 Obvious

Claims 1-4, 15-17, 53, and 62 stand rejected under 35 U.S.C. § 103(a) as being obvious over the preamble of Claim 1 in view of U.S. Patent No. 5,240,124 issued to Buday. Applicant respectfully traverses the present rejection. However, in order to expedite prosecution of the present Application, Applicant has amended Claim 1 and has canceled Claim 53.

With regard to the rejection of Claim 1, Applicant would like to note that Buday teaches a storage cart that is designed to be supported on a rack that holds the cart in a tilted configuration. As noted in the reproduction of Figure 1 set forth below, Buday fails to teach a shelf structure having any plate members extending across the top whatsoever.



In contrast, Claim 1 now recites, among other recitations, “a front rod member (10a), at least one other rod member (10b, 10c) rearwardly spaced from the front rod member (10a) at least a first panel member (10e) extending along the front rod member and a second panel member (10f) extending along the at least one other rod member (10b, 10c), the front rod member, the at least one other member, the first panel member, and the second panel member defining a first plane (16) and being configured to support additional shelving above the first plane, the first and second panel members also being configured to support the shelf structure from one of said fixed or adjustable shelves with the shelf structure disposed below said one of said fixed or adjustable shelves”.

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This distinction is important because, as noted above, by providing at least two rod members, each having a panel member, wherein the rod members together form a first plane that is sufficiently structural to support additional shelving above the first plane and in which the panel members are also configured to support the shelf structure in a hanging configuration from either a fixed or adjustable shelf, the present shelf structure can be used in a number of different modes, none of which are taught or suggested by the Buday reference.

As noted above and as discussed during the interview, by providing a shelf structure with sufficient strength to support additional shelving above it and further including plate members designed to allow the shelf structure to be hung from another shelf, the shelf structure can conveniently be used in two different modes. Because this explanation is set forth above in great detail, it is not repeated herein.

The Buday reference completely fails to teach any plate members whatsoever. Additionally, nothing in the Buday reference teaches or suggests that such a shelf structure could be configured for two modes of use, either supporting additional shelving above it or being hung from another shelf.

Thus, Applicant submits that Claim 1 clearly and non-obviously defines over the Buday reference. Additionally, Applicant submits that Claims 2-4, 15-17, and 62 also define over the Buday reference, not only because they depend from Claim 1, but also on their own merit.

The Proposed Combination of Buday and Lockwood Does Not Makes Claims 9-12 And 19 Obvious

Claims 9-12 and 19 stand rejected under 35 U.S.C. § 103(a) as being obvious over Buday in view of U.S. Patent No. 4,732,282 issued to Lockwood. Applicant respectfully traverses the present rejection.

However, as noted above, Applicant submits that Claim 1 clearly and nonobviously defines over the outstanding rejection based on Buday. Thus, Applicant submits that Claims 9-12 and 19 also define over the outstanding rejection, not only because they depend from Claim 1, but also on their own merit.

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The Proposed Combination Of Dickson And Lockwood Does Not Make Claim 13 Obvious

Claim 13 stands rejected under 35 U.S.C. § 103(a) as being obvious over Dickson in view of Lockwood. Applicant respectfully traverses the present rejection.

However, as noted above, Applicant submits that Claim 1 clearly and nonobviously defines over the outstanding rejection. Thus, Applicant submits that Claim 13 also defines over the cited references, not only because it depends from Claim 1, but also on its own merit.

Dickson Does Not Make Claims 6-8 Obvious

Claims 6, 7, and 8 stand rejected under 35 U.S.C. § 103(a) as being obvious over Dickson. Applicant respectfully traverses the present rejection.

However, as noted above, Applicant submits that Claim 1 clearly and nonobviously defines over the outstanding rejection. By way of the present amendment, Applicant has amended Claims 6, 7, and 8 to depend from Claim 1. Thus, Applicant submits that Claims 6, 7, and 8 also define over the outstanding rejection, not only because they depend from Claim 1, but also on their own merit.

The Proposed Combination Of Dickson And Lockwood Does Not Make Claims 20, 22-24, 26, 28, 29, 30-32, 35, 36, 39, 49-52, 57-59, or 63-67 Obvious

Claims 20, 22-24, 26, 28, 29, 30-32, 35, 36, 39, 49-52, and 63-67 stand rejected under 35 U.S.C. § 103(a) as being obvious over Dickson in view of Lockwood. Applicant respectfully traverses the present rejection.

Initially, however, Applicant would like to note that in order to expedite prosecution of the present Application, Applicant has canceled Claims 36, 39, 49-62, and 63-67. Thus, the present rejection with regard to these claims is now moot. However, Applicant expressly reserves a right to further prosecute these claims.

Dickson is discussed above. As noted above, Dickson teaches the shelf having a clamp device configured to support the shelving device from an additional shelf, at a position at about the middle of the shelving device. However, Dickson fails to teach a shelving device having support legs that extend downwardly to the surface which supports the beverage containers and upwardly to cross members which can support the weight of the shelf in a mode where the shelf is hung from the cross members. Dickson also fails to teach a panel disposed at the front end of the

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shelf in which the panel forms a stop. It was the Examiner's position that it would have been obvious to add the panel 12 from the Lockwood reference to the shelving structure of Dickson.

The Lockwood reference teaches a gravity feed dispenser that includes a panel 12 at its front end. However, nothing in the Lockwood reference indicates that this gravity fed dispenser could be hung from the cross members that extend over the shelving device of Lockwood between the lateral sides.

In contrast, Claim 20 now recites, among other recitations, "a first pair of support legs having lower ends connected to the forward portion at first and second lateral sides of the beverage support surface, the first and second sides of the beverage support surface being spaced along a lateral direction which extends transverse to the longitudinal direction, a first crossmember connecting the upper ends of the first pair of support legs, **the first pair of support legs and the first cross member lying in a first plane**; and a second pair of support legs having lower ends connected to the rearward portion at the first and second lateral sides of the beverage support surface, a second crossmember connecting upper ends of the second pair of support legs, **the second pair of support legs and the second cross member lying in a second plane**; a spacing defined between the upper ends of the second pair of support legs and the rearward portion of the support assembly sized so as to allow the beverage containers to be inserted between a rear portion of the shelf and the rearward portion of the support assembly; a stop disposed at the forward portion of the support assembly, the stop including a panel configured to support a label; wherein the first and second pairs of support legs are sized such that beverage containers can fit between the beverage support surface and the second crossmember and such that the forward portion hangs lower than the rearward portion when the rack is hanging, by the first and second crossmembers, from said shelf above the rack".

Similarly, Claim 30 now recites, among other recitations, "a first pair of support legs having lower ends connected to the forward portion, the first pair of support legs having upper ends connected by a first crossmember, **the first pair of support legs and the first crossmember lying in a first plane**; a second pair of support legs having lower ends connected to the rearward portion, the second pair of support legs having upper ends connected by a second crossmember, **the second pair of support legs and the second crossmember lying in a second plane**, the first cross member configured to hang from the forward area of the shelf, the second

crossmember configured to hang from the rearward area of the shelf; a spacing defined between the upper ends of the second pair of support legs and the rearward portion of the support assembly sized so as to allow beverage containers to be inserted between the rearward area of the shelf and the rearward portion of the support assembly; and a stop disposed at the forward portion of the support assembly, the stop including a panel configured to support a label; wherein the first and second pairs of support legs are sized such that the support assembly is inclined relative to the shelf when the rack is hanging from the horizontal shelf”.

Further, Claim 57 now recites, among other recitations, “first and second support portions disposed at the forward portion of the support assembly, the first and second support portions including upper ends, respectively, adapted to be disposed above the plurality of cylindrical beverage containers supported on the support surface; at least first and second apertures disposed adjacent the upper ends of the first and second support portions, respectively, the first and second apertures being configured to receive fasteners for supporting the forward portion of the support assembly from a shelf above the support assembly, the first and second apertures being spaced rearwardly from the stop; third and fourth support portions disposed at the rearward portion of the support assembly, the third and fourth support portions including upper ends, respectively; at least third and fourth apertures disposed adjacent the upper ends of the third and fourth support portions, respectively, the third and fourth apertures being configured to receive fasteners for supporting the rearward portion of the support assembly from a shelf above the support assembly; and wherein the third and fourth apertures are spaced from a rearward-most portion of the rearward portion of the support assembly such that cylindrical beverage containers can be placed onto the rearward portion of the support assembly when the third and fourth apertures are connected to a shelf disposed above the support assembly by fasteners.”

With regard to support for the above bolded phrases, Applicant respectfully directs the Examiner to Figure 1 of the present Application which illustrates the forward-most support legs 22a and the crossmember 10a extending in a plane and the rearward-most support legs 22a and the crossmember 10c extending in a plane. This feature was specifically discussed during the August 4 interview. Further, Applicant would like to note that the Examiner specifically requested the use of the phrase reciting that these components lie in planes.

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This distinction is important because, as discussed during the interview, providing support legs that extend down to the beverage container support surface and upwardly to cross members which can support the shelf structure in a configuration where the shelf structure is hung by the cross members, the shelf structure is less amenable to bending.

For example, as discussed during the interview, the Dickson reference does not teach support legs extending downwardly from the cross members used to hang the shelf from another shelf. Rather, the cross members 21 are secured within a clamp, wherein the weight of the entire device is supported only by the rods 13. As such, the upper rods can be subject to bending.

However, as recited in Claims 20 and 30, the support legs extend down to the beverage support surface and have upper ends which are connected by cross members that can be used to hang the shelf structure.

The Lockwood reference fails to make any suggestion that the gravity feed dispenser taught therein can be hung from any of its cross members. Rather, the obvious combination of Dickson and Lockwood would be to take the clamping device of Dickson and apply it to the gravity feed dispenser of Lockwood, along with the rearward-most thumb screw 30 which is used to control a tilt angle of the shelf.

With regard to Claim 57, neither of these references disclose or suggest an arrangement with the recited arrangement of apertures.

Applicant thus submits that Claims 20, 30, and 57 clearly and nonobviously define over the cited references. Additionally, Applicant submits that Claims 22-24, 26, 28, 29, 31-32, 35, 58, and 59 also define over the cited references, not only because they depend from one of Claims 20, 30, or 57, but also on their own merit.

The Proposed Combination Of Dickson And Lockwood Does Not Makes Claims 27, 33, 34, or 37 Obvious

Claims 27, 33, 34, and 37 stand rejected under 35 U.S.C. § 103(a) as being obvious over Dickson in view of Lockwood. Firstly, Applicant notes that in order to expedite prosecution of the present Application, Applicant has canceled Claim 37. Thus, the present rejection of Claim 37 is now moot. However, Applicant reserves the right to further prosecute the original version of Claim 37.

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With regard to the rejection of Claims 27, 33, and 34, Applicant submits that these claims define over the cited references, not only because they depend from one of Claims 20 or 30 discussed above, but also on their own merit.

SUMMARY

For the reasons described above, Applicant respectfully submits that all of the pending claims are in condition for allowance. Applicant thus respectfully requests the Examiner withdraw the rejection of Claims and pass these claims to allowance.

The undersigned has made a good faith effort to respond to all of the rejections and objections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: August 18, 2009

By: /Michael Guiliana/

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